

REMARKS***Summary of the Amendment***

Upon entry of the above amendment, claims 1 and 25 will have been amended, claim 30 will have been canceled without prejudice or disclaimer, and new claims 52 – 54 will have been entered for consideration by the Examiner. Accordingly, claims 1, 3, 9 – 27, 29, 31 – 40, 42 – 46, and 48 – 54 currently remain pending.

Summary of the Official Action

In the instant Office Action, the Examiner has rejected claims 1, 3, 9 – 27, 29 – 46, and 48 – 51 over the art of record. By the present amendment and remarks, Applicants submit that the rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

Acknowledgement of Allowable Subject Matter

Applicants note that, as claim 29 has not been rejected over the art of record, Applicants understand that this claim contains allowable subject matter and would be allowable if presented in independent form to include all the features of its base claim 25 (prior to the instant amendment to claim 25). As the pending claims are believed to be allowable in their current form, claim 29 has not been amended at this time.

Should the failure to treat the merits of claim 29 have been inadvertent, Applicants note the Examiner cannot make the next office action final, and that a new non-final action must be forwarded.

Traversal of Rejection Under 35 U.S.C. § 103(a)

1. *Over Jung in view of Evans and Laliotis*

Applicants traverse the rejection of claims 1 – 3, 41, and 46 under 35 U.S.C. § 103(a) as being unpatentable over JUNG (U.S. Patent No. 4,171,161) in view of EVANS (U.S. Patent No. 4,213,707) and LALIOTIS (U.S. Patent No. 4,152,767). The Examiner asserts JUNG shows a system measuring length and diameter of elongated objects, EVANS shows a system for measuring the diameter of filter bars, while mentioning length measurement, and LALIOTIS shows measuring both length and diameter of a log. In view of these showings, the Examiner asserts it would have been obvious to modify EVANS to utilize the length and diameter measuring procedures of JUNG and LALIOTIS in measuring filter bars. Applicants traverse the Examiner's assertions.

Applicants note JUNG shows an apparatus for testing elongated objects for orientation, size, or integrity of material. A light source, which is preferably an electrical flash tube, generates a beam of light. The workpieces are placed in the beam of light to generate a shadow image. The shadow image and surrounding beam portions are projected on a screen on which two photoelectric sensors are located positioned in the projected shadow image. The outputs of the sensors are used to determine relative shadow image characteristics of regions of the objects in the light beam path. However, in contrast to the invention, JUNG does not teach or suggest measuring at least a length and a diameter of the bar-shaped article, as recited in at least independent claims 40 and 46, and certainly simultaneously measuring the length and the diameter of rod shaped articles, as recited in at least independent claim 1. Moreover, JUNG fails to provide any teaching or

suggestion of a braking device and an accelerating device for the bar-shaped articles, and said optical measuring device being located between said braking device and said accelerating device, as recited in at least independent claim 25.

Moreover, EVANS discloses a device for improving the accuracy of optical measuring apparatus by scanning the surface or the main profile of the article with the light beam. The device includes a leaf spring assembly to bear against and confirm a portion of the surface laser beam. A laterally positioned light source emits a scanning laser beam, and that light is reflected from a rotation mirror to pass through a scanner lens to pass over and under the article and through a receiving lens for subsequent receipt by a photo detector. However, like JUNG, EVANS fails to teach or suggest measuring at least a length and a diameter of the bar-shaped article, as recited in at least independent claims 40 and 46, and certainly not simultaneously measuring the length and the diameter of rod shaped articles, as recited in at least independent claim 1. Moreover, EVANS fails to provide any teaching or suggestion of a braking device and an accelerating device for the bar-shaped articles, and said optical measuring device being located between said braking device and said accelerating device, as recited in at least independent claim 25.

Still further, LALIOTIS teaches a method and an apparatus for measuring dimensions of objects with two scanners. However, LALIOTIS fails to teach or suggest measuring at least a length and a diameter of the bar-shaped article, as recited in at least independent claims 40 and 46, the simultaneous measurement of the length and the diameter of rod shaped articles, as recited in at least independent claim 1, and fails to provide any teaching or suggestion of a braking device and an accelerating device for the

bar-shaped articles, and said optical measuring device being located between said braking device and said accelerating device, in at least independent claim 25.

As none of the applied documents teach or suggest at least the above-noted features of the invention, Applicants submit that no proper combination of JUNG, EVANS, and LALIOTIS can even arguably suggest simultaneous measurement of the length and the diameter of rod shaped articles with a single sensor, as recited in at least independent claims 1, 25, 40, and 46.

Further, Applicants submit that claims 3, 41, and 46 (as well as claims 9 – 27, 29 – 39, 42 – 44, and 48 – 50) are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of JUNG, EVANS, and LALIOTIS can even arguably render unpatentable the combination of features recited in at least claims 3, 41, and 46 (as well as claims 9 – 27, 29 – 40, 42 – 44, and 48 – 50).

Accordingly, Applicants request the Examiner reconsider and withdraw the rejection of claims 1, 3, 41, and 46 (as well as claims 9 – 27, 29 – 40, 42 – 44, and 48 – 50) under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

2. Over Jung in view of Evans and Laliotis and further in view of Harris

Applicants traverse the rejection of claims 45 and 51 under 35 U.S.C. § 103(a) as being unpatentable over JUNG in view of EVANS and LALIOTIS and further in view of HARRIS (U.S. Patent No. 4,043,673). The Examiner asserts it would have been obvious to modify the Examiner's asserted combination of JUNG, EVANS, and LALIOTIS to duplicate the measurement arrangement to measure diameters in two

orthogonal directions, as shown by HARRIS. Applicants traverse the Examiner's assertions.

Applicants note that, like the other applied documents of record, HARRIS fails to teach or suggest measuring at least a length and a diameter of the bar-shaped article, as recited in at least independent claims 40 and 46.

As none of the applied documents teach or suggest at least the above-noted features of the invention, Applicants submit that no proper combination of JUNG, EVANS, LALIOTIS, and HARRIS can even arguably suggest measuring at least a length and a diameter of the bar-shaped article, as recited in at least independent claims 40 and 46.

Further, Applicants submit that claims 45 and 51 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further define the present invention. In particular, Applicants submit that no proper combination of JUNG, EVANS, LALIOTIS, and HARRIS can even arguably render unpatentable the combination of features recited in at least claims 45 and 51.

Accordingly, Applicants request the Examiner reconsider and withdraw the rejection of claims 45 and 51 under 35 U.S.C. § 103(a) and indicate that these claims are allowable.

New Claims are Allowable

Applicants note that newly submitted claims 52 – 54, which depend from independent claim 1 are allowable at least for the reason that these claims depend from allowable base claims and because these claims recite additional features that further

define the present invention. In particular, Applicants submit that no proper combination of the applied art teaches or suggests the combination of features recited in at least new claims 52 – 54.

Accordingly, consideration and allowance of these claims is respectfully requested.

Application is Allowable

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

Authorization to Charge Deposit Account

The undersigned authorizes the charging of any necessary fees not explicitly identified, including any extensions of time fees required to place the application in condition for allowance by Examiner's Amendment, to Deposit Account No. 19 - 0089 in order to maintain pendency of this application.

CONCLUSION

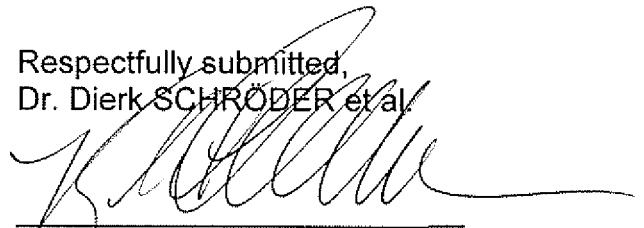
In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1, 3, 9 – 27, 29, 31 – 40, 42 – 46, and 48 – 54. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the

prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,
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